

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX APPLICATION NO.93 OF 1998

WITH

NOTICE OF MOTION NO.1101 OF 1998

The Commissioner of Income Tax, Mumbai City II ..Applicant.

Versus

Tata Engineering & Locomotive Co. Ltd., Mumbai ..Respondent.

Mr.Vinod Gupta for the applicant.

Mr.Ajit Shah for the respondent.

**CORAM : Dr.D.Y. Chandrachud &
J.P. Devadhar, JJ.**

DATE : 17 June, 2010.

PC. :

1. The application has been dismissed on 29 May 1998 for non removal of office objections. It appears that a Notice of Motion No.1101 of 1998 has been taken out for restoration of the application to file. The Notice of Motion is not available on record today. The registry is directed to trace the Notice of Motion.

2. The attention of the Court has been drawn to the fact that the

issue on merits has been covered in favour of the assessee by a judgment of the Division Bench of this Court in *Commissioner of Income-tax V/s. Tata Engineering & Locomotive Co. Limited.*¹ In view of the fact that the issue on merits has now been decided by a Division Bench in favour of the assessee which is not disputed before this Court by the Revenue, we consider it appropriate to restore the Income-tax Application to file and upon restoration, the application has been called out for hearing by consent and is taken on board. The Notice of Motion is, accordingly, disposed of.

3. In view of the judgment of the Division Bench noted earlier, the Income-tax Application is dismissed. There shall be no order as to costs.

(J.P. Devadhar, J.)

(Dr.D.Y. Chandrachud, J.)